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Washington, DC 20007

In re Application of
KAUL, Vijay Kumar et al
Application No.: 10/508,995
PCT No.: PCT/IB02/01205
Int. Filing Date: 25 March 2002
Priority Date: 25 March 2002
Attorney Docket No.: 056859-0201
For: ESSENTIAL OIL WITH CITRONELLOL
AND ROSE OXIDES FROM
DRACOCEPHALUM
HETEROPHYLLUM BENTH AND A
PROCESS THEREOF

DECISION

This decision is in response to the "Petition to Withdraw Holding of Abandonment Under 37 CFR § 1.181(a)" filed on 01 May 2008. No fee is required.

BACKGROUND

On 20 July 2006, a decision dismissing applicants' petition under 37 CFR 1.42 was mailed. Applicants were given two months to respond with extensions of time available.

On 22 January 2007, applicant purportedly filed a response which was accompanied by, *inter alia*, a declaration executed by the legal representative of the deceased inventor along with authorization to charge the \$130.00 surcharge fee to Deposit Account No. 12-1216.

On 03 March 2008, a Notice of Abandonment was mailed stating that the above-captioned application was abandoned because applicants failed to respond to the 20 July 2006 decision.

On 01 May 2008, applicant filed a petition to withdraw the holding of abandonment which was accompanied by, *inter alia*, copies of the documents purportedly filed 22 January 2007 with a date-stamped postcard receipt.

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DISCUSSION

Petition to Withdraw Holding of Abandonment

A review of the subject application shows that the 22 January 2007 response purportedly filed in the above-captioned application was not located in the file¹.

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants have provided a copy of the date-stamped postcard receipt for documents submitted 22 January 2007. The postcard receipt records that among the papers received in the USPTO included a "Dec/POA executed by Devi Naritan (5 pgs.)." The postcard receipt is stamped "OIPE 22 JAN 2007" across its face. The U.S. application number and docket number are listed on the postcard receipt.

Applicants have provided *prima facie* evidence that the response was originally received by the USPTO on 22 January 2007 and misplaced.

CONCLUSION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

A timely response to the 20 July 2006 decision was filed.

The Notice of Abandonment mailed 03 March 2008 is hereby **VACATED**.

Petition Under 37 CFR 1.42

In the response originally filed 22 January 2007, applicants furnished a declaration signed by the legal representative of the deceased inventor, Hans Raj Negi.

37 CFR 1.497(a)(3) requires that the citizenship of each inventor must be listed on the declaration. 37 CFR 1.497(b)(2) states that the citizenship, residence, and mailing address of the legal representative of an inventor must also be recorded on the declaration.

¹ USPTO financial records show that the four-month extension fee of \$1,590.00 was charged to a credit card in the subject application on 22 January 2007.

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A review of the declaration submitted shows that citizenship, residence and mailing address information are listed in the box for the deceased inventor which was signed by the legal representative, Nartan Devi.

However, it is not clear if this information is for the legal representative, or the deceased joint inventor. Regardless, this information is required for both, and must be clearly identified as such on the declaration.

Accordingly, the declaration does not comply with 37 CFR 1.497(a) and (b).

CONCLUSION

For the reasons listed above, applicants' petition under 37 CFR 1.42 is **DISMISSED** without prejudice.

Applicants are required to provide an oath or declaration in compliance with 37 CFR 1.497(a) and (b)² within a time limit of **TWO (2) MONTHS** from the mail date of this decision. Extension of time may be granted under 37 CFR 1.136(a).

Any further correspondence with respect to this matter may be filed electronically via the USPTO EFS-Web, by facsimile to (571) 273-0459, or if mailed addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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² A declaration listing the required information for all inventors and the legal representative is required. The legal representative must execute this declaration. The five joint inventors are not required to execute another declaration.